



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL - 1 2009

Honorable Karen L. Beye
Executive Director
Colorado Department of Human Services
1575 Sherman Street
Denver, Colorado 80203-1774

Dear Director Beye:

We have determined that your State's application for Federal Fiscal Year (FFY) 2009 funds, under Part C of the Individuals with Disabilities Education Act (IDEA or Part C), can be approved. The approval is based upon our review of the application, submitted by the Colorado Department of Human Services – Division of Developmental Disabilities (DDS) to the U.S. Department of Education Office of Special Education Programs (OSEP) on May 15 and 21, 2009, including the policies, procedures, methods, descriptions, assurances, certifications and submission statement provided in Section II which are incorporated by reference to this letter as noted in Enclosure A. This includes the assurance from the Colorado Department of Human Services that the Statewide system of early intervention services required by Part C under 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303 is, and will remain in effect throughout the FFY 2009 grant period.

OSEP is also approving the State's policies submitted under Section II.A.4 and 15 of the State's FFY 2009 Application, which were submitted to address the remaining issues identified in OSEP's June 25, 2008 memorandum. In an e-mail dated November 24, 2008, OSEP previously informed the State that it was approving the final revisions to the Colorado Part C State Plan that were required by OSEP's June 25, 2008 memorandum.

Please note that as part of your State's application for FFY 2009, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2009 grant period. Any changes made by the State to its FFY 2009 application or Part C policies or procedures that are application requirements, after OSEP approval, must meet the applicable public participation requirements under Part C in 34 CFR §§303.110 through 303.113 and if they are requirements under Section II.A must also be submitted to, and approved by, OSEP prior to the State's implementation of its new or revised application, policies and procedures.

Enclosed is the State's regular grant award for funds currently available under the Omnibus Appropriations Act, 2009 for the Part C program. These funds are for use primarily in 2009-2010 and are available for obligation by States from July 1, 2009 through September 30, 2011 in accordance with 34 CFR §76.709.

In addition to these regular FFY 2009 Part C funds, the American Recovery and Reinvestment Act of 2009 (ARRA) provided a one-time large increment in IDEA Part C funding. The ARRA IDEA Part C grants are a supplemental appropriation to the regular IDEA Part C appropriation. The first 50 percent of the ARRA IDEA Part C funds were awarded to States on April 1, 2009 and the second 50 percent will be available to States by September 30, 2009. Please note that

each State will be required to submit additional information that addresses how the State will meet the accountability and reporting requirements in section 1512 of the ARRA before it will be considered eligible to receive the second 50 percent of the ARRA funds. Together, a State's regular FFY 2009 IDEA funds and a State's ARRA IDEA Part C funds constitute a State's total FFY 2009 Part C allocation. Given the increased IDEA Part C FFY 2009 allocation to each State, States may wish to review carefully the guidance on the ARRA IDEA Part C grant awards, available at <http://www.ed.gov/fund/data/award/idea/arra/index.html>.


Section IV.B of the FFY 2009 application for Part C funds requested updated information about each State's restricted indirect cost rate. Your State indicated that Colorado is not charging any indirect costs to IDEA Part C funds. By accepting the IDEA and ARRA Part C grant funds, your agency (as the lead agency designated under Part C) is agreeing not to charge indirect costs to the Part C program for all FFY 2009 Part C grant funds, including ARRA IDEA Part C funds. OSEP is also aware that Colorado is planning to submit a cost allocation plan for approval. The State's operating expenses in Section III.B of its FFY 2009 application are subject to review by OSEP regarding the allowability of such expenses if its proposed cost allocation plan is approved.

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant a State is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

The enclosed grant award for FFY 2009 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

Enclosure A

cc: Part C Coordinator